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69638	7590	10/07/2011	EXAMINER	
KAMRATH & ASSOCIATES P.A. 4825 OLSON MEMORIAL HIGHWAY SUITE 245 GOLDEN VALLEY, MN 55422			CHU, KING M	
			ART UNIT	PAPER NUMBER
			3788	
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			10/07/2011	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/553,497

Applicant(s)

ABBOSH ET AL.

Examiner

KING M. CHU

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 5) ☒ Claim(s) 3,5,9,10,23-25,29-32 and 34-38 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 3,5,9,10,23-25,29-32 and 34-38 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3, 5, 9-10, 12-14, 23-25, 29-32, 34-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In reference to Claim 9, Applicant cited “consisting of a disposable wipe product comprising...” It is unclear whether applicant intends to keep the claim open or closed. From Claim 12, the addition of the dispenser is evident that Claim 9 is open. For the purpose of examination, Claim 9 is considered to be open.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 5, 9-10, 12, 23-24, 29-30, 32, and 34-38 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Franco (2,823,089) in view of Markovics (4,627,640).

#### **In reference to Claim 9**

Franco discloses a disposable wipe product (tissue 10) comprising an elongate web of absorbent material (see Figure 1, (column 1 lines 48-51)) formed into a multiplicity of individual portions (11) integrally connected together in series (see Figure

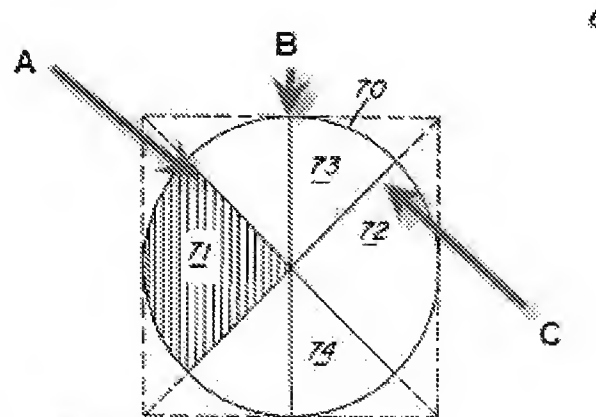
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1) wherein the multiplicity, of individual portions each have a generally circular shape (see column 1, lines 64-68), with the elongate web having an overall width (axis running from top of Figure 1 to the bottom of Figure 1), with each of the multiplicity of individual portions having a length along a longitudinal axis of the elongate web (axis parallel to 14, see Figures 1-2), wherein each of the multiplicity of individual portions has an area that is less than a product of the overall width across the elongate web multiplied by the length along the longitudinal axis of the elongate web (see Figure 1 and 2, where the area of each individual portions 10 is less than a product of the overall width across the web multiplied by the length) and wherein neighbouring individual portions are connected together by a frangible zone of material (11a) whose width across the elongate web is small relative to the overall width of the elongate web with the frangible zones of material each forming a controlled breaking point allowing one of the multiplicity of individual portions is to be separated from the neighbouring individual portions for dispensing (see Figure 3), wherein the frangible zones connecting the individual portions all lie on the longitudinal axis of the elongate web (see frangible zones 11 lying on the longitudinal axis running from the top to bottom of Figure 1), wherein the multiplicity of individual portions are each folded and while the neighboring individual portions are connected together in series and in the stack only (the individual portions are connected in series in Figure 1 and in the stack by the frangible zone, Figure 2) by the frangible zones of material (see Figures 1-3 where 11a connects the neighboring individual portions i.e. 10a to 10b) located on the curved part of the quadrant shape.

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Franco discloses the claimed invention as discussed above and Franco further teach that the square can be replaced by circles of tissue or ovals (col. 1, ll. 64-66) with the exception of the following claimed limitations that are taught by Markovics: the portions are folded about a plurality of diametric fold lines (fold lines A, B, C) are radially extending fold line, see configuration of Figure 7) into a stack with quadrant shape (see Figures 3, 4, and 7) having a curved part (71, after folding of Figure 7)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Franco in view of Markovics so that the web material of Franco is folded into a stack with quadrant shapes with a plurality of fold lines and the shapes of individual portions 11 are modified to the circular shape with fold lines A, B, and C of Markovics, while these circular shapes of web materials are connected together via the frangible zone of material (11a of Franco) for the purpose of ease of manufacture and easier to provide a variety of attractive shapes and configurations, as taught by Markovics (column 1, lines 39-43).



4,627,640

In reference to Claim 3

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Franco in view of Markovics discloses the claimed invention as discussed above for claim 9 and Franco further discloses that the frangible zone is in the form of a single strip of material in a middle section of the web (see Figure 1, 11a).

In Reference to Claim 5

Franco in view of Markovics discloses the claimed invention as discussed above for claim 9 and Franco further discloses the elongate web is folded at the frangible zones between the neighbouring individual portions (see Figure 1 of Franco).

In reference to Claim 10

Franco in view of Markovics discloses the claimed invention as discussed above for claim 9 and Markovics further discloses that the individual portions are folded about the plurality of diametric fold lines in a fan-like pattern (Figures 3 and 4 shows that the diametric fold lines are folded in a fan-like pattern, where Figure 3 and 4 have the same corresponding fold lines of Figure 7).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Franco in view of Markovics for reasons stated in claim 9.

In Reference to Claim 12

Franco in view of Markovics discloses the claimed invention as discussed above for claim 9 and Franco further discloses a dispenser (20) containing a convenience device as claimed in claim 9.

In reference to Claim 23

Franco in view of Markovics discloses the claimed invention as discussed above for claim 9 and Markovics further discloses that the plurality of diametric fold lines

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includes a first fold line extending across a middle of each individual portion at right angles to the longitudinal axis of the web (fold line B which extends through the middle at a right angle to the longitudinal axis), wherein the neighboring individual portions are free of interconnection with each other along the first fold line (when Franco is modified with Markovics, the modified individual portions of Franco will still have the frangible zone 11, where the individual portions will not interconnect with each other along the first fold line).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Franco in view of Markovics so that a first fold line perpendicular to the longitudinal axis is added for reasons stated in claim 9.

In reference to Claim 24

Franco in view of Markovics discloses the claimed invention as discussed above for claim 23 and Markovics further discloses that the plurality of diametric fold lines includes second (A) and third fold lines (C) arranged at an angle of  $45^{\circ}$  to either side of said first fold line on each individual portions (since A and C are at  $90^{\circ}$  to each other and B is the central fold line, A and C are at a  $45^{\circ}$  angle with B, respectively), with each individual portion being folded about the second and third fold lines in a same sense, whilst being folded about said first fold line in an opposite sense (see the fold configuration of Figures 3-4 and 7), wherein the neighboring individual portions are free of interconnection with each other along the first fold line (when Franco is modified with Markovics, the modified individual portions of Franco will still have the frangible zone

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11, where the individual portions will not interconnect with each other along the first fold line).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Franco in view of Markovics so that a second and third fold lines are added for reasons stated in claim 23.

In reference to Claim 29

Franco in view of Markovics discloses the claimed invention as discussed above for claim 5 and Markovics further teaches that the plurality of diametric fold lines includes a first fold line (fold line B which extends through the middle at a right angle to the longitudinal axis) extending across a middle of each individual portion at right angles to the longitudinal axis of the web, wherein the neighboring individual portions are free of interconnection with each other along the first fold line (when Franco is modified with Markovics, the modified individual portions of Franco will still have the frangible zone 11, where the individual portions will not interconnect with each other along the first fold line).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Franco in view of Markovics so that a first fold line perpendicular to the longitudinal axis is added for reasons stated in claim 5.

In reference to Claim 30

Franco in view of Markovics discloses the claimed invention as discussed above for claim 29 and Markovics further discloses that the plurality of diametric fold lines includes second (A) and third fold lines (C) arranged at an angle of 45° to either side of



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said first fold line on each individual portions (since A and C are at 90° to each other and B is the central fold line, A and C are at a 45° angle with B, respectively), with each individual portion being folded about the second and third fold lines in a same sense, whilst being folded about said first fold line in an opposite sense (see the fold configuration of Figures 3-4 and 7), wherein the neighboring individual portions are free of interconnection with each other along the first fold line (when Franco is modified with Markovics, the modified individual portions of Franco will still have the frangible zone 11, where the individual portions will not interconnect with each other along the first fold line).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Franco in view of Markovics so that a second and third fold lines are added for reasons stated in claim 29.

In reference to Claim 32

Franco in view of Markovics discloses the claimed invention as discussed above for claim 38 and Markovics further teaches that the diametric fold lines includes a third fold line (43 and 44, see Figure 6) extending across a middle of each individual portion at right angles to the longitudinal axis of the web (see Figure 6) wherein the neighboring individual portions are free of interconnection with each other along the third fold line (when Franco is modified with Markovics, the modified individual portions of Franco will still have the frangible zone 11, where the individual portions will not interconnect with each other along the third fold line).

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It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Franco in view of Markovics so that a third fold line is added for reasons stated in claim 38.

In reference to Claim 34

Franco in view of Markovics discloses the claimed invention as discussed above for claim 9 and Franco further teaches the elongated web of disposable absorbent material is formed of paper (column 1 lines 48-51).

In reference to Claim 35

Franco in view of Markovics discloses the claimed invention as discussed above for claim 34 and Franco further teaches that the multiplicity of individual portions are paper towels (column 1 lines 48-51).

In reference to Claim 36

Franco in view of Markovics discloses the claimed invention as discussed above for claim 33 and Franco further teaches that the multiplicity of individual portions are wipes (column 1 lines 48-51, facial tissues and toilet tissues are considered wipes).

In reference to Claim 37

Franco in view of Markovics discloses the claimed invention as discussed above for claim 33 and Franco further teaches that the elongated web of disposable absorbent material is formed of cleaning or hygienic material (column 1 lines 48-51, facial tissues).

In reference to Claim 38

Franco in view of Markovics discloses the claimed invention as discussed above for claim 9, wherein the plurality of diametric fold lines includes first (A) and second fold

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lines (C), with the first fold line extending at an angle of 45 degrees to the longitudinal axis of the body (see Figure 7 above), with the second fold line extending at an angle of 90 degrees to the first fold line (see Figure 7 above), wherein neighboring individual portions are free of interconnection with each other along the first and second fold lines (when Franco is modified with Markovics, the modified individual portions of Franco will still have the frangible zone 11, where the individual portions will not interconnect with each other along the first and second fold line).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Franco in view of Markovics so that a first and second fold lines are added for reasons stated in claim 9.

5. Claims 13-14 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Franco (2,823,089) in view of Markovics (4,627,640) and further in view of Harsanyi (5,803,249).

In reference to Claim 13

Franco in view of Markovics discloses the claimed invention as discussed in claim 9 with the exception of the following claimed limitations that are taught by

Harsanyi: two or more separate compartments each for holding the stack (see abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Franco in view of Markovics and further in view of Harsanyi so that dispensing of wet

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sterilizing towelettes and dry towelettes can be achieved, as taught by Harsanyi (column 1, lines 14-16).

In reference to Claim 14

Franco in view of Markovics discloses the claimed invention as discussed in claim 9 with the exception of the following claimed limitations that are taught by Harsanyi: one of the two or more separate compartments holds a dry stack and another of the two or more separate compartments holds a moist or wet stack (see abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Franco in view of Markovics and further in view of Harsanyi for reasons stated in claim 13.

6. Claims 25 and 31 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Franco (2,823,089) in view of Markovics (4,627,640) and further in view of Abbosh (D447,346 S).

In reference to Claim 25

Franco in view of Markovics discloses the claimed invention as discussed above for claim 24 with the exception of the following claimed limitations that are taught by Abbosh: a diametric fold line (see Fold line at the middle and across the paper tower in Figure 1) aligned with the longitudinal axis of the web (modified to the invention of Franco in view of Markovics), with each individual portion folded in a fan-like pattern (After the modification in view of Abbosh, the fold lines formed are capable of being folded in a fan-like pattern), wherein the neighboring individual portions are free of

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interconnection with each other along the fourth fold line (when Franco is modified with Markovics and further in view of Abbosh, the modified individual portions of Franco will still have the frangible zone 11, where the individual portions will not interconnect with each other along the fourth fold line).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Franco in view of Markovics and further in view of Abbosh so that a fourth fold line is added along the longitudinal axis of the web in order to further provide an additional fold line for shaping and stacking of paper towel products, as taught by Abbosh (see the description of Figure 10).

In reference to Claim 31

Franco in view of Markovics discloses the claimed invention as discussed above for claim 30 with the exception of the following claimed limitations that are taught by Abbosh: a diametric fold line (see Fold line at the middle and across the paper tower in Figure 1) aligned with the longitudinal axis of the web (modified to the invention of Franco in view of Markovics), with each individual portion folded in a fan-like pattern (After the modification in view of Abbosh, the fold lines formed are capable of being folded in a fan-like pattern), wherein the neighboring individual portions are free of interconnection with each other along the fourth fold line (when Franco is modified with Markovics and further in view of Abbosh, the modified individual portions of Franco will still have the frangible zone 11, where the individual portions will not interconnect with each other along the fourth fold line).

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It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Franco in view of Markovics and further in view of Abbosh so that a fourth fold line is added along the longitudinal axis of the web in order to further provide an additional fold line for shaping and stacking of paper towel products, as taught by Abbosh (see the description of Figure 10).

### ***Response to Arguments***

7. Applicant's arguments filed 07/19/2011 have been fully considered but they are not persuasive.

8. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

9. Applicant argues that Franco does not show a folding pattern for circular shaped individual portions and that Franco advises against the individual portion having a generally circular shape on ground that it is wasteful of material. The Examiner respectfully disagrees. Franco in view of Markovics shows the claimed invention and although Franco prefers a square shape over the circular shape, the circular shape is not excluded from the reference. Disclosed

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examples and preferred embodiments do not constitute a teaching away from a broader disclosure or non-preferred embodiments. *In re Susi*, 440 F.2d 442, 169 USPQ 423 (CCPA 1971). Furthermore Markovics was cited to show the diametric fold lines and Franco in view of Markovics teaches the claimed invention as discussed above in the Rejections of the claims.

10. In response to applicant's argument that Markovics is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, an inventor considering different fold methods and folds for disposable paper products would naturally look to references employing other paper folds, album cover folds, pop-up type books, etc. which in this case may come from areas such as cassette storage, storage for discs/albums, books, binders, etc. *In re ICON Health and Fitness, Inc.*, 496 F.3d 1374, 1380 (Fed. Cir. 2007) (citing *In re Paulsen*, 30 F.3d 1475, 1481 (Fed. Cir. 1994).

11. In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d

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1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). Franco teaches that different shapes can be used for its individual portions. One would naturally look to other fold methods to accommodate these different shapes, and would arrive at Markovics' reference.

### *Conclusion*

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **KING M. CHU** whose telephone number is (571)270-7428. The examiner can normally be reached on Monday - Friday 10AM - 6PM EST.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Pickett can be reached on (571) 272-4560. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Gregory Pickett/  
Supervisory Patent Examiner, Art Unit 3788

/KING M CHU/  
Examiner, Art Unit 3788